

REMARKS

In response to the above-noted Office Action, Applicant has amended the specification to include section headings as requested by the Examiner. Additionally, Claims 1-4, 7 and 9 have been amended responsive to the rejection under 35 USC 112, second paragraph. The Examiner has suggested that the reference numerals be deleted to avoid confusion. However, Applicant believes that with the amendments presented, while unnecessary for a proper understanding of the invention as claimed, the presence of the reference numbers expedites an understanding of the invention as claimed.

Claims 1-4, 7 and 9 are rejected under 35 USC 102(b) as being anticipated by Martin et al. Reconsideration and withdrawal of this rejection is requested in view of the following.

The present invention is directed to a rachidian anchoring device with hooks 2 and 4. Referring, for example, to Figure 2, the invention also concludes a transverse rod 5 which connects the two hooks and a connecting rod 3. The hooks permit the emplacement and securement of the connecting rod at the level of each vertebra of a vertebral column as set forth in Claim 1. Claim 1 further provides that the transverse rod connects the hooks together and permits compression between the two hooks in a direction towards the center of the vertebral column. Claims 2-4, 7 and 9 depend directly or indirectly from Claim 1 and add further limitations thereto.

In asserting the rejection, the Examiner contends that Martin discloses a transverse rod identified as 3. However, the rod 3 in Martin et al., i.e., the pair of rods both labeled 3, are not transverse rods as that term is used by Applicant. To the extent there is any correspondence between the two rods disclosed in the Martin et al., and the rod of the present invention, such rods relate to Applicant's connecting rod 3, and not Applicant's transverse rod 5. To the extent Martin et al. discloses a transverse element, it would correspond to transverse element 6 comprised of two parts 6A and 6B joined together as shown in Figures 2 and 3. This element 6 is clearly not a rod as that term is used by Applicant, and, in any event, does not permit compression between the two hooks in a direction towards the center of the vertebral column as called for in Claim 1.

In summary, while Martin et al. arguably disclose a connecting rod, they do not disclose a transverse rod as disclosed and claimed by Applicant. Since Martin et al. does not disclose such a transverse rod, Applicant submits that the rejection of Claim 1 under 35 USC 102(b) cannot be maintained. As noted above, the remaining claims 2-4 and 7 and 9 each depend directly or indirectly from Claim 1 and are in condition for allowance for the same reason. Finally, since Claim 1 is generic, and is allowable over the prior art, Applicant submits that the remaining withdrawn claims should be reinstated.

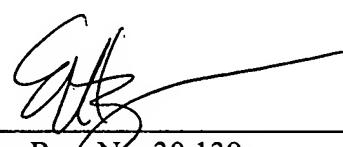
If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: *10/10/07*

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class Mail, With Sufficient Postage, In An Envelope Addressed To: Mail Stop Amendments, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Linda Metz

10/10/07

October 10, 2007